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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,627	07/06/2001	Charles David Weaver	3035-4086US1	7563

23914 7590 03/10/2003

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EXAMINER

CHEU, CHANGHWA J

ART UNIT	PAPER NUMBER
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1641

DATE MAILED: 03/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Office Action Summary</p>	<p>Application No.</p> <p>09/900,627</p>	<p>Applicant(s)</p> <p>WEAVER ET AL.</p>	
	<p>Examiner</p> <p>Jacob Cheu</p>	<p>Art Unit</p> <p>1641</p>	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-120 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) 1-120 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-31, drawn to an apparatus for measuring cellular electrical conditions, classified in class 422, subclass 105.
 - II. Claims 32-52, drawn to an apparatus for measuring cellular electrical conditions, classified in class 436, subclass 806.
 - III. Claims 53-77, drawn to an apparatus for measuring cellular electrical conditions, classified in class 435, subclass 40.5.
 - IV. Claims 78-97, drawn to an apparatus for measuring cellular electrical conditions, classified in class 436, subclass 149.
 - V. Claims 98-108, drawn to an high throughput screening method, classified in class 435, subclass 810.
 - VI. Claims 109-120, drawn to an high throughput screening method for detecting cell processes, classified in class 422, subclass 243.

1. Inventions I- IV are unrelated and distinct. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different features of inventions I, II-VII, constitute patentably unrelated and distinct inventions. The feature of having a second layer, non-porous and non-conductive with sealant material contacting the first layer of the Cell Support Membrane in invention I, is not required by the claims of other groups. The feature of having a pore that is not sealed with a cell is plugged by the addition of one composition to the top surface of the material and another composition to the bottom surface of the material in invention II, is not required by the claims of other groups. The feature of cells are directed to the pores by an attractant in invention III, is not required by the claims of other groups. The feature of having cell attachment sites that are seized to contact individual cells and are coupled to an electrode

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lead/signal modifying circuitry in invention IV, is not required by the claims of other groups. Therefore, inventions I- IV are deemed to be patentably distinct and unrelated.

2. Inventions V and VI are patentably unrelated and distinct. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the feature of contacting the cells with an electrolyte solution comprising a test agent and measuring the electrical activity of the cells contacted with the test agent in invention V, is not required by the claims of invention VI. Likewise, the feature of the measuring electrical activity of cells that are in a resting state, and initiating the cell process in invention VI, is not required by the claims of invention V.
3. Inventions (I-VI) and (V-VI) are unrelated as apparatus and process for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case inventions I-VI, can be practiced by another materially different method other than high throughput screening methods as recited in inventions V and VI.
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and the search for one group is not required for the other, therefore restriction for examination purposes as indicated is proper.
5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Cheu whose telephone number is 703-306-4086. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on 703-305-3399. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3399.

Jacob Cheu
Examiner



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March 3, 2003



LONG LE
SUPERVISORY EXAMINER
TECHNOLOGY CENTER 1600
03/07/03